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FILED
DISTRICT COURT OF GUAM
NOV 20 2006
MARY L.M. MORAN
CLERK OF COURT

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9 IN THE UNITED STATES DISTRICT COURT

10 DISTRICT OF GUAM

11 NANYA TECHNOLOGY CORP.,

12 Plaintiff,

13 -v-

14 FUJITSU LIMITED, FUJITSU
15 MICROELECTRONICS AMERICA, INC.,

16 Defendants.

CIVIL CASE NO. 06-CV-00025

**EX PARTE APPLICATION UNDER
L.R. 7.1(j)&(k) TO SHORTEN TIME
ON MOTION TO EXTEND TIME**

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25 CIVIL CASE NO. 06-CV-00025

26 ORIGINAL

EX PARTE APPLICATION

Defendant Fujitsu Microelectronics America, Inc. ("FMA") hereby applies *ex parte* for an order shortening time on its concurrently filed Motion to Extend Time. In compliance with Local Rule 7.1(j)&(k), the memorandum set forth below contains the name of counsel for the opposing party, the reasons for the seeking of an *ex parte* order, points and authorities in support thereof, and a Certificate by Daniel M. Benjamin. As set out below, prior to bringing this application, FMA counsel attempted unsuccessfully to reach a stipulation with Plaintiffs' counsel, and these papers and the Motion to Extend Time are being served on opposing counsel immediately after filing.

Respectfully submitted this 20th day of November, 2006

CALVO & CLARK, LLP
Attorneys at Law
Attorneys for Defendant
*Fujitsu Microelectronics
America, Inc.*

By: 
Daniel M. Benjamin

Of Counsel:

Christopher E. Chalsen
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Attorneys for Defendant,
Fujitsu Microelectronics America, Inc.

MEMORANDUM OF POINTS AND AUTHORITIES

FMA seeks a hearing on shortened time on its Motion to Extend Time in the interest of judicial economy and to protect the parties from duplicative or unnecessary scheduling practice and discovery.

At present, the proposed scheduling order in this matter is due on November 27, 2006 and the scheduling conference is set for December 12, 2006. However, FMA's co-defendant, Fujitsu Limited, has yet to be served in this action, as explained in its concurrently filed Objections To The Magistrate's Order Granting Motion For Alternative Service Of Process On Fujitsu. And, an amended complaint, adding a new plaintiff and new claims, was filed just days ago on November 17, 2006.

Under these circumstances, with one party yet to be served, a new party being interjected, and new claims being brought, FMA is asking that the Court reschedule the scheduling conference and time for submission of proposed scheduling orders until the outstanding issues can be sorted out, all parties are properly before the Court, and all parties have a fair opportunity to consider the new claims and the scheduling modifications that these may require. In the alternative, FMA is moving to stay discovery based upon the same facts. FMA is moving on shortened time because the relief requested cannot be obtained prior to the due date for the proposed scheduling order absent an order shortening time.

In compliance with Local Rules 7.1(j)&(k), FMA notes that Plaintiffs in this action are represented by two local attorneys and several attorneys who are admitted *pro hac vice*. Their addresses are as follows:

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FMA counsel informed Plaintiffs' local counsel of their intent to bring this application and the Motion for Leave unless a stipulation could be reached. (Certificate of Daniel M. Benjamin in Support of Defendant FMA's Ex Parte Application under L.R. 7.1(J)&(K) to Shorten Time on Motion to Extend Time ("Benjamin Certificate") ¶¶ 6-7 & Ex. 1). Plaintiffs' counsel did not agree. (Benjamin Certificate ¶ 7).

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1 This ex parte application to shorten time is being served on Plaintiffs' counsel with
2 the accompanying papers and Motion to Extend Time. (Benjamin Certificate ¶ 8).

3 Respectfully submitted this 20th day of November, 2006

4 CALVO & CLARK, LLP
5 Attorneys at Law
6 Attorneys for Defendant
7 *Fujitsu Microelectronics*
8 *America, Inc.*

9 By: 
10 Daniel M. Benjamin

11 *Of Counsel:*

12 Christopher E. Chalsen
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